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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	FCC 96-488
	)	
Access Charge Reform	)	CC Docket No. 96-262
Notice of Proposed Rulemaking	)	

REPLY

National Exchange Carrier Association, Inc.
100 South Jefferson Road
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February 14, 1997

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REPLY

The National Exchange Carrier Association, Inc. (NECA) files herein its Reply to comments filed in response to the Commission's *Notice of Proposed Rulemaking* in the above-captioned proceeding.[1]

I. INTRODUCTION & SUMMARY

NECA filed its initial comments on behalf of the NECA pool members which are subject to rate of return regulation. The positions NECA took in its comments are supported by the record in this proceeding. NECA stated that the Commission's proposed transport rate structure generally appears reasonable. Specifically, NECA suggested that if the Commission determines the transport interconnection charge (TIC) needs modification, certain cost components could be logically reallocated to other existing access rate elements. The remainder of the TIC should

[1] Access Charge Reform, *Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry*, FCC 96-488, CC Docket No. 96-262 (rel. Dec. 24, 1996) (*NPRM*). The Commission asks how or whether to apply various proposals in this proceeding to rate-of-return (ROR) local exchange carriers (LECs), and NECA focuses its Reply on its pool members who are all ROR LECs.

continue to be recovered via a per minute of use charge, or through a bulk billed arrangement, until separations reform. Most parties commenting on this subject also agree that a Joint Board will need to recommend separations changes and/or that a transition period is needed.[2]

Regarding any other rate structure changes the Commission adopts for price cap LECs, the record supports allowing the NECA pools to adopt those changes, where feasible, pending completion of the separate ROR proceeding.

NECA also proposed and commenting parties agree that, absent any separations rule changes, the Commission should adopt Part 69 rules changes that treat universal support assigned to interstate access elements, including Dial Equipment Minutes (DEM) weighting and Long Term Support (LTS), as revenue streams in the development of interstate access rates.

II. TRANSPORT RATE STRUCTURE

A. Transport Facilities

The Commission proposed in its *NPRM* to apply transport rate structure changes it adopted to all incumbent LECs. NECA agrees that the current three-part rate structure appears reasonable. The Commission tentatively concluded that the mileage component of the current three-part rate structure, between the serving wire center and the tandem, should be a flat rate charge. NECA also agrees that this tentative conclusion is consistent with the manner in which the facility is provisioned. NECA acknowledges that commenters disagree on how this facility

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[2] *See infra*, notes 5-9, and accompanying text. The transition period that most parties suggest is contemplated over a period of years and is therefore consistent with NECA's suggestion that recovery of the TIC residual continue until separations reform, which should occur within such a transition period. *See id.*

expense should be recovered.[3] In general, matching charges with the manner in which facilities are provisioned is a sound concept absent overriding public policy concerns.[4]

B. Transport Interconnection Charge

If the Commission determines that TIC modification is necessary, the record strongly supports NECA's proposal that TIC costs should be reassigned where feasible, leaving the TIC remainder intact pending separations reform. For example, USTA states that for ROR LECs, after TIC components have been identified and recovered on a cost-causative basis, the remaining TIC revenue requirement should continue to be recovered until the ROR access reform and separations reform proceedings are completed.[5] USTA's proposal breaks down cost causative components in a similar manner to NECA's proposal.[6] Many other commenting parties, including state government, competitive interests, and consumer interests, as well as

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[3] *Cf.* Sprint at 21-25 (should not be a "mandated" flat rated charge) and Cable & Wireless at 15 (IXCs should continue to have option to purchase on both a per minute of use basis and a direct trunked basis) with Bell Atlantic & Nynex at 41 (all direct trunk transport that is provisioned should be charged a flat rate) and AT&T at 59 (dedicated rates should apply).

[4] Small telephone companies are not currently required to offer the three part transport rate structure absent a bona fide request. Transport Rate Structure and Pricing and Petition for Waiver of the Transport Rules filed by GTE Service Corporation, CC Docket No. 91-213, *Report and Order and Further Notice of Proposed Rulemaking*, 7 FCC Rcd 7006, 7049 (1992). This flexibility has permitted NECA pool members to avoid expensive and unnecessary changes to their networks and their administrative and billing systems. Current data show that 305 companies with 1091 switches still provide transport under the equal access charge structure. The Commission should allow these companies to continue to operate in this cost efficient manner.

[5] USTA at 60.

[6] *See id* at 60-62.

LECs, make similar suggestions.[7]

Moreover, most parties commenting on the subject, including major interexchange carriers (IXCs), agree on the need for a transition from the cost recovery in the current TIC to other recovery mechanisms, rather than an "instant phaseout." Sprint, WorldCom and other IXCs support a transition for phasing out the TIC.[8] The Personal Communications Industry Association (PCIA) and Time Warner also support a transition period.[9] This call for a reasonable transition is consistent with NECA's proposal.[10]

III. OTHER NEW RATE STRUCTURES

Many comments support NECA's position that if the Commission adopts other rate

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[7] Texas PUC supports a reassignment of TIC costs and recovery of residual. Texas PUC at 21. TCI supports reassignment of TIC costs based upon cost causation with the residual to be included in the charge to the IXCs based on pre-subscribed lines. TCI at 9. State Consumer Advocates suggest reallocation with recovery of remaining TIC by increasing all other transport elements. SCA at 36. Bell Atlantic & Nynex, BellSouth, US West, Cincinnati Bell, TDS and AllTel also suggest redistribution of TIC to specific access elements with remainder recovered through interstate access charges until separations reform. *See* Bell Atlantic and Nynex at 36-38, BellSouth at 8, Cincinnati Bell at 11-12, TDS at 23-24, AllTel at 13-14. Similarly, Pacific Telesis and the Alaska Telephone Association suggest reallocating portions of the TIC and bulk billing the remainder; and the Western Alliance suggests reallocation of the TIC with a reduced TIC remaining. Pacific Telesis at 71-72; Alaska Telephone Association at 9-10; Western Alliance at 22. *See also* SWBT at 9 and RTC at 12 (supporting reallocation of TIC); Cincinnati Bell at 11 (need for separations); Frontier Corp. at 8-9 (Joint Board needed to phase out TIC).

[8] Sprint at 29, WorldCom at 65, ACC Long Distance Corp. at 12, Telco Communications Group at 5-6.

[9] PCIA at 2 ("reforms adopted will be implemented over a significant period of time, with an interim transition period"); Time Warner at 13-14.

[10] *See supra*, note 2.

structure changes for price cap LECs, the NECA pools should be allowed to adopt those rate structure changes, where feasible, pending completion of the separate ROR proceeding.[11] Customers of NECA pool members might benefit from adoption of these rate structure changes, especially in those numerous instances where access customers are served jointly by both price cap companies and pool members.[12] A common rate structure would facilitate meet point billing arrangements and customer access ordering procedures.[13]

TDS states that rate structure changes should be an option, but not a requirement, for NECA pools.[14] NECA agrees because its nationwide rates represent a wide variety of markets with disparate cost characteristics. Any changes to nationwide average rates must take into account factors such as impacts on customers and member company measurement and billing capabilities. Western Alliance suggests that new rate structures should not be imposed upon rural LECs, but rural LECs should be afforded the option to concur in new rate structures on an "as-needed" basis.[15] Minnesota Independent Coalition also suggests such flexibility to adopt changes in rate structures but notes that the unique characteristics of small LECs necessitates exceptions to general rules.[16] Roseville Telephone Company and Bell Atlantic & Nynex make similar

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[11] NECA at 10.

[12] *Id.* The majority of NECA pool LECs have some jointly provided service arrangements with adjacent companies.

[13] *Id.*

[14] TDS at 16.

[15] Western Alliance at 25.

[16] Minnesota Independent Coalition at 14.

arguments.[17] Bell Atlantic & Nynex specifically state that LECs should have the flexibility to adopt appropriate rate structures to meet market needs.[18]

The Commission has previously recognized the unique market characteristics of small telephone companies by granting them flexibility in selecting and implementing rate structure changes. For example, small telephone companies are not required to offer the three part transport rate structure absent a bona fide request.[19]

A. Carrier Common Line

NECA agrees with most commenters that either a flat-rated charge or a bulk-billing method is more appropriate than a usage-sensitive charge for the recovery of the non-traffic sensitive carrier common line (CCL) charge revenue requirement. USTA supports recovery of CCL costs through a flat-rate, per-line charge paid by IXCs.[20] RTC recommends either a flat rate or bulk billed CCL mechanism, based on pre-subscribed lines.[21] MCI suggests a flat-rated per-line charge.[22] Ameritech and Bell Atlantic & Nynex also support a flat-rate, per-line charge.[23]

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[17] Roseville Telephone Co. at 3, Bell Atlantic & Nynex at 40.

[18] Bell Atlantic & Nynex at 40.

[19] *See supra*, note 4.

[20] USTA at 55. In contrast, the Alaska Telephone Association endorses bulk billing of CCL costs. ATA at 3.

[21] RTC at 7.

[22] MCI at 76-77.

[23] Ameritech at 14, Bell Atlantic & Nynex at 35.

The Ohio PUC recommends bulk-billing.[24] Many other varied interests also support either a flat-rated or bulk-billing mechanism.[25]

As NECA stated in its Comments, however, the sole use of a flat-rated, per-line charge could lead to rates that discourage the development of interexchange carrier competition in rural service areas.[26] Thus, NECA proposed that the Commission adopt a rule by which the pool could charge a nationwide average per-line CCL rate and bulk-bill the residual amount.[27]

B. Subscriber Line Charge

With respect to the subscriber line charge (SLC), the record supports NECA's position that a SLC increase for second residential lines applied to ROR LECs would be difficult to administer and could have a significant negative impact on end user decisions to add additional lines or advanced services.[28] For rural America, a SLC increase might severely inhibit

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[24] Ohio PUC at 1-2.

[25] *See e.g.*, Cincinnati Bell at 9 (flat rate), Florida PSC at 2 (flat rate), Frederick & Warriner at 4 (bulk bill), State Consumer Advocates at 28 (flat rate), Competition Policy Institute at 14 (flat rate), Competitive Telecommunications Association at 29 (flat rate).

[26] NECA at 10-12. NECA data show that individual study areas can vary from approximately $0.12 to $105.32. *Id* at 11. Rather than increase rates applicable to their entire service areas, including lower cost, more competitive areas, IXCs might instead choose to avoid rural areas. *Id* at 12, note 35. This could deny rural subscribers the benefits of diverse IXC service offerings. *Id.*

[27] *Id* at 12. The current national average CCL rate computation would no longer be possible based on the Joint Board Recommendation to eliminate LTS for non-rural pool LECs and to freeze LTS for rural pool members on a per-line basis during a transition period. *Id.*

[28] NECA at 13.

participation in the national and global information infrastructures.[29] USTA states that "[s]ince incumbent LECs are the only providers which assess the SLC charge, [increasing the SLC cap for secondary residential lines] will likely provide customers an uneconomic incentive to obtain secondary lines from LEC competitors."[30] Sprint, BellSouth and other parties believe that SLC increases on second lines would not be administrable.[31] NARUC, the Ohio PUC, Florida PSC, Alabama PSC and South Dakota PSC also oppose any SLC increase.[32]

The record also corroborates the NECA data describing the extreme impact that removal of the SLC cap would have on some rural companies, with potential monthly SLC rates as high as $109.12.[33] For example, GVNW states that removal of the multi-line cap "would have a deleterious impact on rural customers," and included supporting data that showed potential SLC rates as high as $105.98 per month.[34] TCA also notes the significant negative impacts for

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[29] "Deaveraging SLCs for additional residential lines could discourage connection to the Internet or other information providers, which is often accomplished via a second residential line. It cannot be assumed that customers would continue to take lines subject to a full-cost SLC in a high cost rural area." TDS at 20-21. *See also* Roseville Telephone Co. at 10.

[30] USTA at 56.

[31] Sprint at 17, BellSouth at 69. *See also* US West at 56. Cincinnati Bell points out potential problems with fraud and inability to monitor accurately because customers will put lines in different names. Cincinnati Bell at 7-8. Similarly, Bell Atlantic & Nynex state that raising the SLC on second residential lines raises administrative questions, so it should be allowed as an option only. Bell Atlantic & Nynex at 34.

[32] NARUC at 13, Ohio PUC at 1, 6, Florida PSC at 2, Alabama PSC at 6 and South Dakota PSC at 2.

[33] NECA at 13. As the basis for this analysis, NECA used rural study areas' Base Factor Portion interstate common line costs which establish SLC rates absent a cap.

[34] GVNW Comments at 7 and GVNW Exhibit A at 2.

companies that it represents.[35] RTC states that eliminating the SLC cap on additional lines "will devastate rural economies" and that any changes the Commission adopts to the cap on SLCs should not extend to ROR LECs.[36] Thus, the Commission should exercise caution as it considers any proposed SLC increases, or elimination of the SLC cap, especially where customer impacts would be severe.[37]

C. Other Potential Rate Structure Changes

In addition to the considerations noted above, the NECA pools should be allowed to adopt other rate structure changes decided by the Commission for price cap companies, where feasible and where they will benefit customers served by the pool companies.[38] Cincinnati Bell's statement that "[a]ny changes which lead to a more efficient rate structure should be equally applicable to non-price cap LECs" would certainly apply to the NECA pools.[39] TDS states that the Commission should provide ROR LECs and the NECA pools the option of voluntarily becoming subject to at least some of the access charge rules the Commission proposes for price

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[35] TCA at 3.

[36] RTC at 7-8. *See also* Western Alliance at 11, Minnesota Independent Coalition at 12-14, Washington Independent Telephone Association at 4.

[37] The NECA pools should be able to adopt changes that relate to application of SLCs to derived channel services as long as the application of these SLCs would not discourage ISDN service in rural areas. This concern about applicability was also echoed by TDS and GTE. TDS at 22; GTE at 33-35; See also SNET at 41-42 which states that Commission should not burden new technologies with compliance with traditional access charge rules and regulations.

[38] NECA at 13-14.

[39] Cincinnati Bell at 5. *See also* Roseville at 3.

cap LECs, without awaiting conclusion of the deferred ROR access charge proceeding.[40]

While NECA proposed that, once a waiver for a new service offering was granted by the Commission, it should be extended to all companies and the pool,[41] others went further and suggested that the Part 69 rate structure rules and waiver requirements be partially or entirely eliminated.[42] For example, BellSouth suggests that the rules be limited to the identification of services, with rate structures and elements left to individual companies.[43] NECA supports elimination or simplification of Part 69 rate structure rules, since detailed rules make it difficult to meet customer expectations, introduce uncertainty into the marketplace, increase administrative expense and delay the introduction of new services. Elimination or simplification of Part 69 rate structure rules would be sound administrative practice irrespective of the level of competition the access provider faces.

IV. UNIVERSAL SERVICE SUPPORT AND INTERSTATE ACCESS ELEMENTS

NECA stated in its comments that absent any separations rules changes, the Commission should clarify that interstate revenue requirements would continue to be determined as they are today; and that universal service support assigned to interstate access elements should be treated as revenue streams for interstate ratemaking.[44] RTC states that if FCC adopts the proposal to

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[40] TDS at 11.

[41] NECA at 14.

[42] *See* Pacific Bell at 23; Southwestern Bell at 24; Cincinnati Bell at 19-20; AllTel at 17.

[43] BellSouth at 37.

[44] NECA at 14.

include DEM weighting and LTS in the new universal service mechanism, their character as interstate revenue should not change and the interstate revenue requirement will not change.[45] TDS agrees that DEM Weighting and LTS should continue to be treated as interstate revenue streams for the NECA pools.[46]

NECA also reiterates its request that the Commission clarify that pending proceedings on separations reform, the per-line rural transition high cost support amounts from the new universal service program will continue to be treated as an intrastate expense adjustment recovered from the interstate jurisdiction to help keep intrastate rates affordable.[47] Part 36 rules changes would appear to be necessary to ensure matching of the expense adjustment with the level of federal funding proposed in the Joint Board Recommendation.[48] NECA believes that synchronization of universal service, access and separations rules is needed.

V. CONCLUSION

Based on the record, the Commission should, if it determines the transport interconnection charge (TIC) needs modification, logically reallocate certain cost components to other existing access rate elements; and direct carriers to recover the remainder of the TIC via a per minute of use charge, or through a bulk billed arrangement, until separations reform.

Based on the record, the Commission should also allow the NECA pools to adopt rate

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[45] RTC at 14.

[46] TDS at 28. *See* NECA at 15.

[47] NECA at 15.

[48] *Id* at 15, note 46.

structure changes the Commission develops for price cap LECs, where feasible, pending completion of the separate ROR proceeding. The record also supports the elimination or simplification of Part 69 rate structure rules.

Finally, absent separations reform, the record supports Part 69 rules changes that treat universal support assigned to interstate access elements, including DEM weighting and LTS, as revenue streams in the development of interstate access rates.

Respectfully Submitted

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February 14, 1997

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Comments were served this 14th day of February, 1997, by mailing copies thereof by United States Mail, first class postage paid, or hand delivery, to the persons listed below.

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